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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

A.B. and A.M.B, by their parents and
next friends, C.B. and D.B., T.T., by
her parents and next friends, K.T. and
S.T., and A.P., by her parents and next
friends, C.P. and M.P.,

Plaintiffs,

vs.

HAWAII STATE DEPARTMENT OF
EDUCATION and OAHU
INTERSCHOLASTIC
ASSOCIATION,

Defendants.

Case No. 1:18-cv-00477-LEK-RT

[CIVIL RIGHTS ACTION]

**JOINT MOTION FOR FINAL
APPROVAL OF THE
SETTLEMENT AGREEMENT;
MEMORANDUM IN SUPPORT OF
JOINT MOTION**

[CLASS ACTION]

HEARING:

Date: February 16, 2024

Time: 10:30 a.m.

Judge: Honorable Leslie E. Kobayashi

**JOINT MOTION FOR FINAL
APPROVAL OF THE SETTLEMENT AGREEMENT**

Named Plaintiffs, A.B. and A.M.B., by their parents and next friends, C.B.
and D.B., T.T., by her parents and next friends, K.T. and S.T., and A.P., by her
parents and next friends, C.P. and M.P., on behalf of themselves and the Class
certified by the Court (collectively, “Plaintiffs”), by and through Class Counsel,
together with Defendants Hawaii Department of Education (“DOE”) and the Oahu
Interscholastic Association (“OIA”), hereby move this Court for the entry of an

Order pursuant to Rule 23 of the Federal Rules of Procedure granting final approval of the proposed Settlement Agreement of this Class Action.

The proposed Settlement provides substantial benefits to the entire Class. The terms of the proposed Settlement are fully set forth in the Settlement Agreement filed herewith and summarized in the Parties' Joint Motion for Preliminary Approval of the Settlement Agreement. Dkt. 312. The Court granted preliminary approval of the Settlement Agreement on October 27, 2023. Dkt. 313.

This Motion is based upon and supported by the accompanying Memorandum in Support of the Joint Motion, the Parties' Joint Motion for Preliminary Approval of the Settlement Agreement, the exhibits attached hereto and incorporated by reference herein, and the entire record and file of this case.

Dated: January 26, 2024

Respectfully submitted,

By: /s/ Elizabeth Kristen
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Dated: January 26, 2024

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

A.B. and A.M.B, by their parents and
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S.T., and A.P., by her parents and next
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Case No. 1:18-cv-00477-LEK-RT

[CIVIL RIGHTS ACTION]

**MEMORANDUM IN SUPPORT OF
JOINT MOTION FOR FINAL
APPROVAL OF THE
SETTLEMENT AGREEMENT**

[CLASS ACTION]

HEARING:

Date: February 16, 2024

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MEMORANDUM IN SUPPORT OF JOINT MOTION

I. INTRODUCTION

Named Plaintiffs, on behalf of themselves and the Class certified by the Court, by and through Class Counsel (collectively, “Plaintiffs”), together with Defendants Hawaii Department of Education (“DOE”) and the Oahu Interscholastic Association (“OIA”) respectfully request that this Court enter an order granting final approval to the Parties’ proposed Settlement and Release Agreement, including Exhibit A (Compliance Plan), and Exhibit B (Additional

Specific Terms, Oahu Interscholastic Association) (hereinafter “Settlement,” attached as Exhibit 1¹) as fair, reasonable, and adequate, pursuant to Rule 23 of the Federal Rules of Civil Procedure. The Parties also request that the Court retain exclusive and continuing jurisdiction over the Settlement for the purpose of enforcement during the Compliance and Monitoring Period, as indicated in the proposed Settlement and Release Agreement. Ex. 1 at 2.

II. THE COURT ALREADY CONCLUDED THAT THE PROPOSED SETTLEMENT SATISFIES RULE 23

Rule 23(e) provides that a certified class’s claims may be settled “only with the court’s approval.” The court may approve a settlement proposal binding class members “only on finding that it is fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). This Court has granted preliminary approval of the Settlement, without expressing any concerns regarding its terms. *See* Dkt. 313. None of the terms have since changed. Thus, it would be appropriate for the Court to make the necessary findings under Rule 23(e) for the reasons discussed in the Parties’ Joint Motion for Preliminary Approval. *See* Dkt. 312 at 23-25 (discussing how Settlement meets approval standards under Rule 23(e)).²

¹ The proposed Settlement was previously attached to the Parties’ Joint Motion for Preliminary Approval, Dkt. 312-1, and is attached here again for the Court’s convenience. The Compliance Plan is attached as Exhibit A to Exhibit 1. Additional terms specific to OIA are attached as Exhibit B to Exhibit 1.

² When internal pagination conflicts with ECF pagination, the Parties refer to the latter.

III. CLASS NOTICE IS UNDERWAY

When granting preliminary approval of the Settlement, the Court approved the Parties' proposed format of Class Notice and ordered Defendants to provide Class Notice at Defendants' expense by January 17, 2024. *See* Dkt. 313, 314. The Court scheduled a Fairness Hearing for February 16, 2024 and ordered that any comments on the proposed Settlement by Class Members must be sent to the Court postmarked by February 9, 2024. Dkt. 314.

The Court ordered Defendants to provide Class Notice "in the manner described in the joint motion," Dkt. 314, which was as follows:

- (1) published in local newspapers, including but not limited to *The Honolulu Star-Advertiser* and *Midweek Oahu*;
- (2) posted for two weeks on the daily school bulletin at Campbell High School; and
- (3) posted on Campbell High School's bulletin boards and website, DOE's website, and OIA's website.

Dkt. 312 at 12.

The OIA posted the Class Notice on its website starting on January 11, 2024. The OIA was instructed to have the Class Notice remain published on its website until the Court hearing on February 16, 2024.

Campbell High School posted the Class Notice on its daily bulletin, its school website, and on its bulletin boards starting on January 12, 2024. Campbell High School was instructed to keep the Class Notice posted until after the fairness hearing on February 16, 2024. The DOE posted the Class Notice on its website

starting on January 16, 2024. The DOE was instructed to keep the Class Notice posted until after the fairness hearing on February 16, 2024. Due to technical problems at the *Honolulu Star-Advertiser* and *Midweek Oahu*, Class Notice was not published in the *Honolulu Star-Advertiser* until January 25, 2024, in both the print and online editions. Due to those same technical problems, Class Notice will not be published in *Midweek Oahu* until January 31, 2024.

The Parties are unaware of any objections made by Class Members to the Settlement. Rather, the Parties have received positive feedback from Class Members regarding the Settlement. The Parties recommend the Court provide an opportunity to submit a supplemental brief if any objections arrive.

IV. THE COURT SHOULD GRANT THE MOTION WHILE RESOLUTION OF ATTORNEYS' FEES AND COSTS IS PENDING

The issue of attorneys' fees and costs is currently pending before the Honorable Rom Trader. On January 5, 2024, the Parties prepared the joint statement as required by Local Rule 54.2(e). Dkt 316-1 at Ex. J. Plaintiffs filed their fee motion on January 12, 2024. Dkt. 316. The OIA filed its response on January 19, 2024. Dkt. 322. The DOE filed its joinder to the OIA's response on January 22, 2024. Dkt 323. Plaintiffs are filing their reply today. The Parties recommend that the Court grant final approval of the Settlement while the resolution of fees and costs remains pending.

V. CONCLUSION

For reasons discussed above and in the Parties' Joint Motion for Preliminary Approval, Plaintiffs and Defendants respectfully request the Court grant final approval to the Settlement and retain exclusive and continuing jurisdiction over the Agreement during the Compliance and Monitoring Period—*i.e.*, until October 7, 2030, unless otherwise ordered by the Court as provided by the Agreement. Ex. 1 at 2.

Dated: January 26, 2024

Respectfully submitted,

By: /s/ Elizabeth Kristen
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